

REMARKS

Claims 1-12 are pending in the application. The Examiner rejected claims 1, 2, 4, and 5 and has objected to claims 3 and 6-12.

Amendments to Claims

In the claims, claim 1 has been amended to overcome the 35 U.S.C. §102(b) rejection based on U.S. Pat. No. 5,582,266 issued to Rexroad et al. Applicant believes that no new matter has been added. Additionally, claim 2 has been amended as required by the Examiner. Claims 2, 3, 6, 8, and 11 have been amended to correct minor editorial problems. No substantive changes have been made to claims 2, 3, 6, 8, and 11.

Claim Rejections – 35 U.S.C. §102(b)

The Examiner rejected Applicant's claims 1, 2, 4, and 5 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,582,266 issued to *Rexroad et al.* ("Rexroad '266"). For a claim to be rejected under this statute, it must be anticipated by the prior art. Anticipation occurs when every element of the claimed invention is met. *See, Helifix Ltd v Blok-Lok Ltd*, 208 F.3d 1339 (Fed. Cir. 2000) (stating, "[t]o be anticipating, a prior art reference must disclose 'each and every limitation of the claimed invention[,] . . . must be enabling[,] and must describe . . . [the] claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention'"). In this case, Applicant has amended claim 1. Applicant believes that no new matter has been presented in the amended claim 1. Additionally, because Rexroad '266 does not meet every element of claim 1, there cannot be anticipation under 35 U.S.C. §102(b) with respect to dependent claims 2, 4, and 5. *See, In re Johnson*, 589 F.2d 1070, 1080 (CCPA 1978). Therefore, Applicant respectfully requests that the Examiner reconsider the rejection of claims 1, 2, 4, and 5.

Claim 1

Specifically, claim 1 has been amended to include the limitation that the water soluble yarn exhibits high shrinkage rates when wetted with water and dried such that the yarn reduces in length up to a point where strain is imposed on the yarn by the frame. Applicant's specification makes clear on page 6, lines 14-19 that the claimed water soluble shrinkable yarns react to wetting by reduction in length up to the point where strain is imposed on the yarns by an outside force, such as a rigid frame. In other words, the net comprised of the water soluble shrinking yarns will reduce in size up to a point where the frame to which it is attached opposes any further shrinkage.

This differs from the Rexroad '266 patent. In Rexroad '266, the disclosed shrinking of the nylon yarns occurs when they are exposed to a treating process that includes dyeing and dipping them in a solution. (Rexroad '266, Column 1, lines 21-24). After the nylon yarns are shrunk through the dyeing/dipping process, they tend to *undesirably stretch* with use. (Rexroad '266, Column 1, lines 24-25) (emphasis added). Nowhere in Rexroad '266 is it disclosed that the nylon yarns shrink to a point where an outside force imposes a strain on the yarns. Rather, the opposite effect is disclosed in Rexroad '266. Specifically, sag control for the net must be incorporated into the support structure (i.e. the frame) because of the undesirable stretching of the nylon when it is attached to a support structure. (Rexroad '266, Column 1, lines 25-27). The nylon disclosed in Rexroad '266 is not reduced in length up to a point where strain is imposed on the nylon by an outside force. Therefore, the nylon yarn disclosed in Rexroad '266 is not the same as the water soluble, high shrinkage yarn disclosed in Applicant's invention. As such, because not every element of Applicant's invention is met, Rexroad '266 does not anticipate Applicant's invention.

Claim 2

In Applicant's claim 2, all of the elements of claim 1 are claimed in addition to the particular construction of the net. Specifically, it is disclosed that the net is comprised of weft members and perpendicularly extending warp members connected to a border member which intersect together with one another at intersections or nodes, and the weft, warp, and border members are made of shrinkable material. (Applicant's Claim 2). Because this is a

dependent claim and adds further limitations to independent claim 1, it should be allowed in dependent form. *See, In re Johnson*, 589 F.2d 1070, 1080 (CCPA 1978). Therefore, claim 2 is not anticipated by Rexroad '266.

Claim 4

In Applicant's claim 4, all of the elements of claim 1 are claimed in addition to a plurality of adjustment bolts that receive a border member of the net. The Examiner has equated Applicant's adjustment bolts with the C-rings disclosed in Rexroad '266. Applicant respectfully disagrees with the Examiner's equation of the adjustment bolts of the present invention with the C-rings of Rexroad '266.

Specifically, in Applicant's invention, the adjustment bolts are used to attach and, as the name explicitly implies, adjust the net to the frame. In contrast, as disclosed in Rexroad '266 the C-rings are used to "nonreleaseably capture" a portion of the perimeter of the mesh structure and border member in a fastened condition. (Rexroad '266, Column 2, lines 49-51). The C-rings disclosed in Rexroad '266 do not allow the mesh to be adjusted once it is fixed in place. (Rexroad '266, Column 2, lines 49-51). In fact, Rexroad '266 discloses that the C-rings are used in the place of stitching, which is permanent. (Rexroad '266, Column 2, lines 50-53). Therefore, the C-rings disclosed in Rexroad '266 are not the same as Applicant's adjustment bolts, and Rexroad '266 does not anticipate Applicant's claim 4. In addition, dependent claim 4 should be allowed as written because it further adds a limitation to independent claim 1. *See, In re Johnson*, 589 F.2d at 1080.

Claim 5

In Applicant's claim 5, all of the elements of claims 1 and 2 are claimed in addition to installing the net on the frame prior to shrinkage. The Examiner has equated Applicant's frame with the border edges of the safety net disclosed in Figure 3 of Rexroad '266. Applicant respectfully disagrees with the Examiner's equation of the frame of the present invention with the border edges of Rexroad '266.

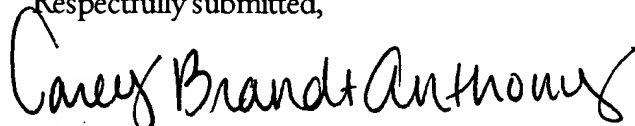
In particular, in Rexroad '266, the border members (41, 41', 43, and 43') are not similar to the frame disclosed in Applicant's invention. However, even assuming *arguendo*, that a similar frame is disclosed in Rexroad '266, nowhere is it disclosed that the safety net is attached to the frame *prior* to shrinking. In fact, Rexroad '266 discloses that the nylon net is treated (i.e. shrunk) first, and then installed on a support structure at the job site. (Rexroad '266, Column 1, lines 21-28). While Rexroad '266 does disclose the use of sag control of an installed net, this does not equate with the shrinking process claimed in Applicant's claims 1, 2, and 5. Additionally, if the Examiner is equating the border members (41, 41', 43, and 43') to the frame disclosed in Applicant's invention, there can be no anticipation because the nylon yarns do not reduce in length up to a point where the border members (41, 41', 43, and 43') impose a strain on the nylon yarns. Therefore, Rexroad '266 does not anticipate Applicant's invention. In addition, dependent claim 5 should be allowed as written because it further adds a limitation to independent claim 1. *See, In re Johnson*, 589 F.2d at 1080.

Conclusion

Applicant believes he has addressed and responded to every point raised in the Examiner's present action. For the reasons stated above, Applicant respectfully requests reconsideration of his application.

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Respectfully submitted,



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